

AMENDED IN ASSEMBLY MARCH 23, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2005**

**Introduced by Assembly Member Aghazarian**

February 13, 2004

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An act to amend Section 11462 of the Welfare and Institutions Code, relating to community care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2005, as amended, Aghazarian. Community care facilities: ~~juvenile-offender~~ group home programs.

*Existing law, pursuant to the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, requires the State Department of Social Services to classify group home programs and to establish rates for foster care providers licensed as group homes according to those classifications. Existing law prohibits the department from establishing a rate for a new program of a new or existing provider unless the provider submits a recommendation from the host county, the primary placing county, or a regional consortium of counties that the program is needed in that county, that the provider is capable of effectively and efficiently operating the program, and that the provider is willing and able to accept AFDC-FC children for placement who are determined by the placing agency to need the level of care and services that will be provided by the program.*

*This bill would also include within the scope of these provisions the establishment of a rate by the department for an existing program at a new location of an existing provider. It would, instead, provide that the establishment of a rate under these provisions would require the*

provider to submit a statement of findings from the host county or a regional consortium of counties that includes the host county, specifying that the conditions described above with respect to the need for the program and the capacity and ability of the provider exist.

~~Existing law requires the State Department of Social Services to license community care facilities. Existing law provides that it is the intent of the Legislature that each county be encouraged to provide, in the county, a number and variety of licensed community care facilities, commensurate to the needs of minors adjudged wards of the juvenile court as a result of the commission of a criminal offense who are residents of the county.~~

~~This bill would declare the intent of the Legislature to enact legislation that will establish additional program and monitoring requirements for community care facilities that provide services and supervision to juvenile offenders.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

~~SECTION 1. It is the intent of the Legislature to enact legislation that will establish additional program and monitoring requirements for community care facilities that provide services and supervision to wards of the juvenile court, as described in Section 602 of the Welfare and Institutions Code.~~

~~SECTION 1. Section 11462 of the Welfare and Institutions Code is amended to read:~~

~~11462. (a) (1) Effective July 1, 1990, foster care providers licensed as group homes, as defined in departmental regulations, including public child care institutions, as defined in Section 11402.5, shall have rates established by classifying each group home program and applying the standardized schedule of rates. The department shall collect information from group providers beginning January 1, 1990, in order to classify each group home program.~~

~~(2) Notwithstanding paragraph (1), foster care providers licensed as group homes shall have rates established only if the group home is organized and operated on a nonprofit basis as required under subdivision (h) of Section 11400. The department shall terminate the rate effective January 1, 1993, of any group~~

1 home not organized and operated on a nonprofit basis as required  
2 under subdivision (h) of Section 11400.

3 (3) (A) The department shall determine, consistent with the  
4 requirements of this chapter and other relevant requirements under  
5 law, the rate classification level (RCL) for each group home  
6 program on a biennial basis. Submission of the biennial rate  
7 application shall be made according to a schedule determined by  
8 the department.

9 (B) The department shall adopt regulations to implement this  
10 paragraph. The adoption, amendment, repeal, or readoption of a  
11 regulation authorized by this paragraph is deemed to be necessary  
12 for the immediate preservation of the public peace, health and  
13 safety, or general welfare, for purposes of Sections 11346.1 and  
14 11349.6 of the Government Code, and the department is hereby  
15 exempted from the requirement to describe specific facts showing  
16 the need for immediate action.

17 (b) A group home program shall be initially classified, for  
18 purposes of emergency regulations, according to the level of care  
19 and services to be provided using a point system developed by the  
20 department and described in the report, "The Classification of  
21 Group Home Programs under the Standardized Schedule of Rates  
22 System," prepared by the State Department of Social Services,  
23 August 30, 1989.

24 (c) The rate for each RCL has been determined by the  
25 department with data from the AFDC-FC Group Home Rate  
26 Classification Pilot Study. The rates effective July 1, 1990, were  
27 developed using 1985 calendar year costs and reflect adjustments  
28 to the costs for each fiscal year, starting with the 1986–87 fiscal  
29 year, by the amount of the California Necessities Index computed  
30 pursuant to the methodology described in Section 11453. The data  
31 obtained by the department using 1985 calendar year costs shall be  
32 updated and revised by January 1, 1993.

33 (d) As used in this section, "standardized schedule of rates"  
34 means a listing of the 14 rate classification levels, and the single  
35 rate established for each RCL.

36 (e) Except as specified in paragraph (1), the department shall  
37 determine the RCL for each group home program on a prospective  
38 basis, according to the level of care and services that the group  
39 home operator projects will be provided during the period of time  
40 for which the rate is being established.

1 (1) (A) For new and existing providers requesting the  
2 establishment of an RCL, and for existing group home programs  
3 requesting an RCL increase, the department shall determine the  
4 RCL no later than 13 months after the effective date of the  
5 provisional rate. The determination of the RCL shall be based on  
6 a program audit of documentation and other information that  
7 verifies the level of care and supervision provided by the group  
8 home program during a period of the two full calendar months or  
9 60 consecutive days, whichever is longer, preceding the date of the  
10 program audit, unless the group home program requests a lower  
11 RCL. The program audit shall not cover the first six months of  
12 operation under the provisional rate. Pending the department's  
13 issuance of the program audit report that determines the RCL for  
14 the group home program, the group home program shall be eligible  
15 to receive a provisional rate that shall be based on the level of care  
16 and service that the group home program proposes it will provide.  
17 The group home program shall be eligible to receive only the RCL  
18 determined by the department during the pendency of any appeal  
19 of the department's RCL determination.

20 (B) A group home program may apply for an increase in its  
21 RCL no earlier than two years from the date the department has  
22 determined the group home program's rate, unless the host county,  
23 the primary placing county, or a regional consortium of counties  
24 submits to the department in writing that the program is needed in  
25 that county, that the provider is capable of effectively and  
26 efficiently operating the proposed program, and that the provider  
27 is willing and able to accept AFDC-FC children for placement who  
28 are determined by the placing agency to need the level of care and  
29 services that will be provided by the program.

30 (C) To ensure efficient administration of the department's audit  
31 responsibilities, and to avoid the fraudulent creation of records,  
32 group home programs shall make records that are relevant to the  
33 RCL determination available to the department in a timely manner.  
34 Except as provided in this section, the department may refuse to  
35 consider, for purposes of determining the rate, any documents that  
36 are relevant to the determination of the RCL that are not made  
37 available by the group home provider by the date the group home  
38 provider requests a hearing on the department's RCL  
39 determination. The department may refuse to consider, for  
40 purposes of determining the rate, the following records, unless the



1 group home provider makes the records available to the  
2 department during the fieldwork portion of the department's  
3 program audit:

4 (i) Records of each employee's full name, home address,  
5 occupation, and social security number.

6 (ii) Time records showing when the employee begins and ends  
7 each work period, meal periods, split shift intervals, and total daily  
8 hours worked.

9 (iii) Total wages paid each payroll period.

10 (iv) Records required to be maintained by licensed group home  
11 providers under Title 22 of the California Code of Regulations that  
12 are relevant to the RCL determination.

13 (D) To minimize financial abuse in the startup of group home  
14 programs, when the department's RCL determination is more than  
15 three levels lower than the RCL level proposed by the group home  
16 provider, and the group home provider does not appeal the  
17 department's RCL determination, the department shall terminate  
18 the rate of a group home program 45 days after issuance of its  
19 program audit report. When the group home provider requests a  
20 hearing on the department's RCL determination, and the RCL  
21 determined by the director under subparagraph (E) is more than  
22 three levels lower than the RCL level proposed by the group home  
23 provider, the department shall terminate the rate of a group home  
24 program within 30 days of issuance of the director's decision.  
25 Notwithstanding the reapplication provisions in subparagraph (B),  
26 the department shall deny any request for a new or increased RCL  
27 from a group home provider whose RCL is terminated pursuant to  
28 this subparagraph, for a period of no greater than two years from  
29 the effective date of the RCL termination.

30 (E) A group home provider may request a hearing of the  
31 department's RCL determination under subparagraph (A) no later  
32 than 30 days after the date the department issues its RCL  
33 determination. The department's RCL determination shall be final  
34 if the group home provider does not request a hearing within the  
35 prescribed time. Within 60 days of receipt of the request for  
36 hearing, the department shall conduct a hearing on the RCL  
37 determination. The standard of proof shall be the preponderance  
38 of the evidence and the burden of proof shall be on the department.  
39 The hearing officer shall issue the proposed decision within 45  
40 days of the close of the evidentiary record. The director shall

1 adopt, reject, or modify the proposed decision, or refer the matter  
 2 back to the hearing officer for additional evidence or findings  
 3 within 100 days of issuance of the proposed decision. If the  
 4 director takes no action on the proposed decision within the  
 5 prescribed time, the proposed decision shall take effect by  
 6 operation of law.

7 (2) Group home programs that fail to maintain at least the level  
 8 of care and services associated with the RCL upon which their rate  
 9 was established shall inform the department. The department shall  
 10 develop regulations specifying procedures to be applied when a  
 11 group home fails to maintain the level of services projected,  
 12 including, but not limited to, rate reduction and recovery of  
 13 overpayments.

14 (3) The department shall not reduce the rate, establish an  
 15 overpayment, or take other actions pursuant to paragraph (2) for  
 16 any period that a group home program maintains the level of care  
 17 and services associated with the RCL for children actually residing  
 18 in the facility. Determinations of levels of care and services shall  
 19 be made in the same way as modifications of overpayments are  
 20 made pursuant to paragraph (2) of subdivision (b) of Section  
 21 11466.2.

22 (4) A group home program that substantially changes its  
 23 staffing pattern from that reported in the group home program  
 24 statement shall provide notification of this change to all counties  
 25 that have placed children currently in care. This notification shall  
 26 be provided whether or not the RCL for the program may change  
 27 as a result of the change in staffing pattern.

28 (f) (1) The standardized schedule of rates for the 2002–03 and  
 29 2003–04 fiscal years is:

31 Rate	Point Ranges	FY 2002–03 and 2003–04
32 Classification		Standard
33 Level		Rate
34 1	Under 60	\$1,454
35 2	60– 89	1,835
36 3	90–119	2,210
37 4	120–149	2,589
38 5	150–179	2,966
39 6	180–209	3,344
40 7	210–239	3,723

1	8	240–269	4,102
2	9	270–299	4,479
3	10	300–329	4,858
4	11	330–359	5,234
5	12	360–389	5,613
6	13	390–419	5,994
7	14	420 & Up	6,371

(2) (A) For group home programs that receive AFDC-FC payments for services performed during the 2002–03 and 2003–04 fiscal years, the adjusted RCL point ranges below shall be used for establishing the biennial rates for existing programs, pursuant to paragraph (3) of subdivision (a) and in performing program audits and in determining any resulting rate reduction, overpayment assessment, or other actions pursuant to paragraph (2) of subdivision (e):

Rate	Adjusted Point Ranges
Classification	for the 2002–03 and 2003–04
Level	Fiscal Years
1	Under 54
2	54– 81
3	82–110
4	111–138
5	139–167
6	168–195
7	196–224
8	225–253
9	254–281
10	282–310
11	311–338
12	339–367
13	368–395
14	396 & Up

(B) Notwithstanding subparagraph (A), foster care providers operating group homes during the 2002–03 and 2003–04 fiscal years shall remain responsible for ensuring the health and safety of the children placed in their programs in accordance with existing applicable provisions of the Health and Safety Code and



1 community care licensing regulations, as contained in Title 22 of  
2 the Code of California Regulations.

3 (C) Subparagraph (A) shall not apply to program audits of  
4 group home programs with provisional rates established pursuant  
5 to paragraph (1) of subdivision (e). For those program audits, the  
6 RCL point ranges in paragraph (1) shall be used.

7 (g) (1) (A) For the 1999–2000 fiscal year, the standardized  
8 rate for each RCL shall be adjusted by an amount equal to the  
9 California Necessities Index computed pursuant to the  
10 methodology described in Section 11453. The resultant amounts  
11 shall constitute the new standardized schedule of rates, subject to  
12 further adjustment pursuant to subparagraph (B).

13 (B) In addition to the adjustment in subparagraph (A),  
14 commencing January 1, 2000, the standardized rate for each RCL  
15 shall be increased by 2.36 percent, rounded to the nearest dollar.  
16 The resultant amounts shall constitute the new standardized  
17 schedule of rates.

18 (2) Beginning with the 2000–01 fiscal year, the standardized  
19 schedule of rates shall be adjusted annually by an amount equal to  
20 the CNI computed pursuant to Section 11453, subject to the  
21 availability of funds. The resultant amounts shall constitute the  
22 new standardized schedule of rates.

23 (3) Effective January 1, 2001, the amount included in the  
24 standard rate for each Rate Classification Level for the salaries,  
25 wages, and benefits for staff providing child care and supervision  
26 or performing social work activities, or both, shall be increased by  
27 10 percent. This additional funding shall be used by group home  
28 programs solely to supplement staffing, salaries, wages, and  
29 benefit levels of staff specified in this paragraph. The standard rate  
30 for each RCL shall be recomputed using this adjusted amount and  
31 the resultant rates shall constitute the new standardized schedule  
32 of rates. The department may require a group home receiving this  
33 additional funding to certify that the funding was utilized in  
34 accordance with the provisions of this section.

35 (h) The standardized schedule of rates pursuant to subdivisions  
36 (f) and (g) shall be implemented as follows:

37 (1) Any group home program that received an AFDC-FC rate  
38 in the prior fiscal year at or above the standard rate for the RCL in  
39 the current fiscal year shall continue to receive that rate.



(2) Any group home program that received an AFDC-FC rate in the prior fiscal year below the standard rate for the RCL in the current fiscal year shall receive the RCL rate for the current year.

(i) (1) The department shall not establish a rate for a new program of a new or existing provider, *or for an existing program at a new location of an existing provider*, unless the provider submits a ~~recommendation~~ *statement of findings* from the host county, ~~the primary placing county~~, or a regional consortium of counties that *includes the host county, of all of the following*:

(A) *That the program is needed in that county; that county.*

(B) *That the provider is capable of effectively and efficiently operating the program; and that program.*

(C) *That the provider is willing and able to accept AFDC-FC children for placement who are determined by the placing agency to need the level of care and services that will be provided by the program.*

(2) The department shall encourage the establishment of consortia of county placing agencies on a regional basis for the purpose of making decisions and recommendations about the need for, and use of, group home programs and other foster care providers within the regions.

(3) The department shall annually conduct a county-by-county survey to determine the unmet placement needs of children placed pursuant to Section 300 and Section 601 or 602, and shall publish its findings by November 1 of each year.

(j) The department shall develop regulations specifying ratesetting procedures for program expansions, reductions, or modifications, including increases or decreases in licensed capacity, or increases or decreases in level of care or services.

(k) (1) For the purpose of this subdivision, “program change” means any alteration to an existing group home program planned by a provider that will increase the RCL or AFDC-FC rate. An increase in the licensed capacity or other alteration to an existing group home program that does not increase the RCL or AFDC-FC rate shall not constitute a program change.

(2) For the 1998–99, 1999–2000, and 2000–01 fiscal years, the rate for a group home program shall not increase, as the result of a program change, from the rate established for the program effective July 1, 2000, and as adjusted pursuant to subparagraph

1 (B) of paragraph (1) of subdivision (g), except as provided in  
2 paragraph (3).

3 (3) (A) For the 1998–99, 1999–2000, and 2000–01 fiscal  
4 years, the department shall not establish a rate for a new program  
5 of a new or existing provider or approve a program change for an  
6 existing provider that either increases the program’s RCL or  
7 AFDC-FC rate, or increases the licensed capacity of the program  
8 as a result of decreases in another program with a lower RCL or  
9 lower AFDC-FC rate that is operated by that provider, unless both  
10 of the following conditions are met.

11 (i) The licensee obtains a letter of recommendation from the  
12 host county, primary placing county, or regional consortium of  
13 counties regarding the proposed program change or new program.

14 (ii) The county determines that there is no increased cost to the  
15 General Fund.

16 (B) Notwithstanding subparagraph (A), the department may  
17 grant a request for a new program or program change, not to  
18 exceed 25 beds, statewide, if both of the following conditions are  
19 met:

20 (i) The licensee obtains a letter of recommendation from the  
21 host county, primary placing county, or regional consortium of  
22 counties regarding the proposed program change or new program.

23 (ii) The department determines that the new program or  
24 program change will result in a reduction of referrals to state  
25 hospitals during the 1998–99 fiscal year.

26 (l) General unrestricted or undesignated private charitable  
27 donations and contributions made to charitable or nonprofit  
28 organizations shall not be deducted from the cost of providing  
29 services pursuant to this section. The donations and contributions  
30 shall not be considered in any determination of maximum  
31 expenditures made by the department.

32 (m) The department shall, by October 1 each year,  
33 commencing October 1, 1992, provide the Joint Legislative  
34 Budget Committee with a list of any new departmental  
35 requirements established during the previous fiscal year  
36 concerning the operation of group homes, and of any unusual,  
37 industrywide increase in costs associated with the provision of  
38 group care that may have significant fiscal impact on providers of  
39 group homes care. The committee may, in fiscal year 1993–94 and

- 1 beyond, use the list to determine whether an appropriation for rate
- 2 adjustments is needed in the subsequent fiscal year.

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